PART IV

Section 2-C (ii)

STATUTORY ORDERS ISSUED BY THE STATE GOVERNMENT UNDER THE CENTRAL ACTS AND STATE ACTS

GOVERNMENT OF MYSORE

FOOD, CIVIL SUPPLIES AND LABOUR SECRETARIAT

Labour Dispute:—Industrial Dispute between the workmen and the management of Consolidated Coffee Estates Polibetta Post, Coorg District.

Award of the Labour Court, Bangalore—Published.

Read the following papers:

(1) Letter No. IT 699/72-73 dated 26th August 1972, from Sri Narayan Rai Kudoor, Presiding Officer, Industrial Tribunal, Bangalore.

BEFORE THE INDUSTRIAL TRIBUNAL IN MYSORE. BANGALORE.

Dated 25th August 1972.

Present:

Shri Narayan Rai Kudoor, B.A., B.L., *Presiding Officer.*

I. D. No. 1 of 1965.

I Party.	*II Party.*
Workmen of the Consolidated Coffee Estates (1948) Ltd., Polibetta Post, *Coorg District.*	The Management of the Consolidated Coffee Estates (1943) Ltd., Polibetta Post, *Coorg District.*

Appearances.

For the I Party:—

Sri K. Rajagopal, Deputy General Secretary, The Estates Staffs Union of South India, Coonoor.

For the II Party :—

Sri P. K. Kurian. Advocate. M/s. Menon and Pai, P. B. No. 1761, Ernakulam, Cochin-16.

AWARD

The Government of Mysore being of opinion that an industrial dispute exists between the workmen and the management of the Consolidated Coffee Estates (1943) Ltd. Pollibetta of Coorg District, referred the said dispute to the Special Industrial Tribunal at Bangalore in exercise of the powers conferred by clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947) for adjudication on the following points of dispute as per the order dated 22nd July 1965:—

"(1) Whether the staff of the Consolidated Coffee Estates (1943) Ltd., Pollibetta P.O., Coorg are entitled to eight months' basic salary as Bonus, or at any other rate for the year 1962-63.

(2) Whether the Management of Consolidated Coffee Estates (1943) Ltd., Pollibetta P.O. Coorg are justified in withholding the payment of 6½ Months' Basic salary as Bonus to staff for the year 1962-63 voluntarily provided and charged by them in the trading expenses; and whether the staff are entitled to receive the same immediatly."

2. The above reference was registered as I.D. No. 1 of 1965 on the file of the Special Industrial Tribunal, Bangalore. Notice of the dispute was issued to the I Party workmen who are represented by the Regional Secretary, the Estates Staffs' Union of South India at Chickmagalur and the II Party-Management of Consolidated Coffee Estates (1943) Ltd., who will be hereinafter referred to as the I and II Parties respectively in the course of this award. Both the parties entered appearance and put in their statements of claim.

3. The I Party in the claim statement having traced the prior events leading up to the present reference contended that the II Party cannot insist on the application of the Full Bench Formula as approved by the Supreme Court or the Bonus

Ordinance, as it was never done previously while declaring bonus for the various years. The bonus was paid by the II Party voluntarily applying fixed ratio between the net profits and the bonus declared. The II Party used to pay bonus on the average ranging between 5½ to 7 months' basic salary considering the gross and the net profits for the year 1962-63 and the same method should be applied in calculating the bonus for the said year, also. Regarding the bonus for the said year the II Party has paid 20 per cent of the basic salary and D.A. to the members of the staff and the artisans which was accepted by the I Party under protest and without prejudice to their right to claim additional bonus for the year in question. The I Party further contended that in any event they are entitled to receive 8⅓ months' basic salary as bonus, which has been voluntarily charged, earmarked and set apart by the company in its accounts. The share-holders of the company have also passed the audited balance-sheet and profit and loss accounts of the company in the General Body Meeting held for that purpose. Subsequently the II Party has paid bonus to one staff member and 3 artisans for the year in question at 5½ months' basic salary and hence there is no justification for the II Party to deny the same for the other members of the staff and artisans on the sole ground that they refused to accept the same in full settlement of their claim for bonus as demanded by the company. On the grounds the I Party put forward their claim for bonus at 8 months' basic salary for the year 1962-63 and prayed that the Tribunal may direct the II party to pay bonus at that rate for the year 1962-63 and also costs of the proceedings.

4. The II Party denied the various allegations made by the I Party in their statement of claim while traversing the previous history leading up to the order of reference. Dealing with the merits of the dispute under reference, it has been contended by the management that the quantum of bonus for the year 1962-63 has to be determined according to the provisions of the Payment of Bonus Ordinance, 1965. In the event, it is held that the provisions of the payment of Bonus Ordinance, 1965 are not applicable, then the principles of the Full Bench Formula as approved by the Supreme Court have to be resorted to in ascertaining the quantum of bonus to be paid to the I Party workmen. As per the provisions of the Payment of Bonus Ordinance the maximum bonus payable to any employee for a year is 20% of his salary or wage for the accounting year and the I Party workmen have been paid bonus at that rate. In that view, they are not entitled

to any additional payment towards bonus for the year 1962-63. Further, the I Party workmen had accepted the bonus so declared by the II Party and the letter written by the union subsequently stating that the employees received the amounts under protest cannot be treated as a letter of protest, as the same was sent after the employees received the bonus amount without any protest at the time of receipt. in the past the II Party was paying bonus to their employees keeping in view the profits made by the company. The necessity of applying the Full Bench Formula did not arise, as there was no dispute raised by the employees regarding the quantum of bonus declared by the company. The question of application of the principles of Full Bench Formula would have arisen only if the employees had refused to accept the bonus declared by the II Party on an *ad hoc* basis keeping in view the profits earned in the particular year. The II Party denied having adopted any definite ratio between the profits made in any particular year and the quantum of bonus declared for that year. In any event, the matter could be decided only under the payment of Bonus Ordinance, 1965. The bonus was paid at 5½ months' basic pay to one staff member and 3 artisans as they accepted the payment in full and final settlement Since the other staff members rejected the offer made by the II Party, the offer lapsed and the question of paying bonus to them at that rate could not arise. Finally the II Party submitted that the I Party-workmen are not entitled to any additional amount towards bonus for the year 1962-63 and prayed for rejection of the demand made by the I Party.

5. The Special Industrial Tribunal framed the following issues on 4th September 1965 arising out of the pleadings of the parties:—

"1. Whether the workmen are entitled to Bonus on the basis of the provisions made in the accounts OR on the basis of the provisions of Law?

2. Was the industrial dispute relating to the Payment of Bonus for the year in question pending before the Government before 2nd September 1964, and whether the dispute has to be decided in accordance with the provisions of the Payment of Bonus Ordinance, 1965?

3. Whether the maximum bonus payable to any employee for the year in question is 20% of their salary as defined in the Ordinance?

4. Whether the letter sent by the Union cannot be treated as a letter of protest ?

5. Whether the issues referred for adjudication are only in respect of Staff and do not include artisans ?

6. Whether the Company was paying Bonus on the basis of the net profits and whether applying the same ratio for the year in question, the members of the staff and artisans are entitled to 8 months' basic pay by way of Bonus ?

7. Whether in any event the concerned employees are entitled to receive immediately 5½ months' basic salary as bonus as it has been voluntarily charged ear-marked and set apart by the company in its accounts ?

8. Whether there was any agreement between the then Managing Director and the Union Office-bearers that the staff members will be paid 7 months basic salary by way of Bonus and that the artisans employees proportionately thereof ?

9. Whether the offer made by the Company to pay Bonus at the rate of 5½ months basic wages to Staff ? 60 per cent thereof in the case of artisans, lapsed as it was not accepted in full and final settlement ?

10. To what reliefs, if any, are the parties entitled ?"

6. On these issues the parties proceeded to adduce evidence. On behalf of the I Party, 5 witnesses were examined whereas the II Party examined the Managing Director as their solitary witness. The learned Special Industrial Tribunal after answering the various additional issues framed on the pleadings of the parties held under the 1st point of dispute that the staff of the II Party are entitled to 6 months basis salary as bonus for the year 1962-63 and under point No. 2 that the II Party was not justified in withholding the payment of 5½ months' basic salary as bonus which was voluntarily charged by them in the trading expenses for the year 1962-63 and the staff members are entitled to receive the same immediately, and accordingly passed an award on 18th November 1965.

7. Aggrieved by the award made by the Special Industrial Tribunal, the II Party took up the matter to the Supreme Court in Civil Appeal No. 1007 of 1966 by special leave. The Supreme

Court allowed the appeal, set aside the award and remanded the dispute to the Tribunal with a direction to determine the amount of bonus payable by the II Party to the staff members on the principles laid down in the Full Bench Formula as approved by the Supreme Court after giving opportunity to the parties to adduce evidence as per the judgement dated 17th September 1968.

8 By the time the matter was remanded by the Supreme Court, the Special Industrial Tribunal which dealt with the dispute originally became defunct and as per the direction of the State Government in their letter dated 13th June 1969 the case was taken on the file of this Tribunal and continued as I. D. No. 1/65 which was the registered number given by the then Special Industrial Tribunal. After remand, the I Party examined 3 more witnesses besides recalling their 3rd witness and examining him further, whereas the II Party examined one more witness on their side in addition to the witnesses already examined by them during the first stage of the enquiry.

9. The learned counsel appearing on either side was heard.

10. The scope of the enquiry of the dispute between the parties has been considerably narrowed down and falls within a very narrow compas in view of the observations made by the Supreme Court in Civil Appeal No. 1007 of 1966 while remanding the case for fresh disposal after setting aside the award passed by the learned Special Industrial Tribunal. The direction given by the Supreme Court in the above appeal was to determine the amount of bonus payable by the II Party on the principles laid down in the Full Bench Formula as approved by the Supreme Court. That being the position the various other contentions advanced by either side and decided by the Special Industrial Tribunal under the various issues raised do not arise for consideration afresh. With this background let me now proceed to consider the evidence adduced on either side and their rival contentions in order to determine the amount of bonus payable by the II Party on the principles laid down in the Full Bench Formula as approved by the Supreme Court.

11. After remand in addition to the oral evidence adduced, both the parties produced separate computation statements of available surplus in accordance with the Full Bench Formula for the year ending 30th June 1963 which is the relevant year for

our purpose. The computation statement filed by the II Party was marked as Exhibit M-4 whereas the statement filed by the I Party was not marked as an exhibit during the course of the evidence However, it forms part of the record and available for reference. I feel, it would be useful to reproduce both the statements filed by the parties for better understanding their respective contentions.

Computation statement filed by the II Party (Ext. M-4) :

THE CONSOLIDATED COFFEE ESTATES (1943) LIMITED
Statement showing the DEFICIENCY for the year ended
30th June 1963 in accordance with the LAT FORMULA

			Rs.
Profit as per Profit and Loss Account			42,64,961
Add			
Depreciation	...	5,25,824	
Provision for bonus to staff	...	1,31,049	
Bonus to Labour	...	93,981	
Bonus paid relating to previous year	...	70,351	
Donation and Charities	...	7,805	
Contribution to National Defence Fund	...	37,800	8,66,810
			51,31,771
Less—Extraneous Income :			
Income from Investment	...	57,963	
Sale of Capital Assets other than timber	...	1,649	
Sale of Capital Assets (Timber)	...	7,22,312	7,81,924
Gross Profit	...		43,49,847
Less			
Depreciation as admissible for tax purposes...			4,78,892
			38,70,955
Less			
Tax Liability	...		22,50,813
			16,20,142
Less—Return on paid up Capital.—			
6.25% on Preference Share Capital of Rs. 18,75,000		1,17,000	
10% On Ordinary Share Capital of Rs. 71,55,000		7,15,500	8,32,500
			7,87,642

	Rs.
Less—Return at 5% on reserves o Rs. 81,98,362 employed as working Capital	4,09,918
	3,77,724
Less—Return at 5% on reserve sunk in Fixed Assets of Rs. 83,70,724	4,18,536
DEFICIENCY subject to the claim for rehabilitation of assets	40,812

Note.—Depreciation claimed is as admissible for tax purposes and this is less than the national normal depreciation.

Sd/

MADRAS : 14TH JUNE 1969 CHARTERED ACCOUNTANTS

Computation statement dated 29th June 1970 filed by the I Party:

THE CONSOLIDATED COFFEE ESTATES (1943) LIMITED

Statement showing the *Available Surplus* for the year ending 30th June, 1968, in accordance with the LAT Formula.

Profit as per Profit and Loss Account:			42,64,961
Add—			
Depreciation	...	5,25,824	
Provision for bonus to staff	...	1,31,049	
Bonus to Labour	...	93,981	
Bonus paid relating to previous year	...	70,351	
Donation and Charities	...	7,805	
Contribution to National Defence Fund	...	37,800	
Provision for Doubtful Debts	...	15,000	8,81,810
			51,46,771
Less—			
Profit on Sale of Fixed Assets	...		1,617
Gross Profit	...		51,45,154
Less—			
Depreciation as admissible for Tax Purposes:			4,78,892
			46,66,262
Less—			
Tax Liability @ 45%			99818
			25,66,444

		Rs.
Less—		
Return on Paid up Capital :		
6% on preference Capital of Rs 18,75,000...	1,12,500	
6% on Ordinary share Capital of Rs. 71,55,000	4,29,300	5,41,800
		20,24,644
Less—		
Return on Working Capital of Rs. 40,46,162 @ 4% *i.e.* amount of Current Assets minus Cash on hand less Current Liabilities : ...		1,61,846
NET Available Surplus ...		18,62,798

Sd/

Bangalore
Dt. 29-6-70

K. RAJAGOPAL
General Secretary, K.S.U.S.I.

12. During the course of the argument, both the parties argued their respective cases with reference to the computation statement Ext. M-4 filed by the II Party For the sake of convenience, I shall also deal with the rival contentions of the parties with reference to Ext. M-4.

13. Only a few of the items mentioned in the computation statement Ext. M-4 were in dispute. However during the course of the argument the rival parties adopted an attitude of compromise regarding the various items which were in dispute except the one about which each wanted to hold one's own, namely the proceeds realised by the sale of timber; the net-realisation of which amounting to Rs. 7,22,312/- on which the success or failure of either party solely depends in this dispute.

14. There was no dispute regarding the profit for the year 1962-63 as shown in Ext. M-4. There was also no dispute between the parties regarding the various items and the amounts taken under each of them under the add back provision. However it was urged on behalf of the I Party by their learned representative Sri K. Rajagopal that a sum of Rs. 15,000/- shown as an item of expenditure under the head "Provision for doubtful debts" at page 16 in the audited balance sheet and the profit and loss account

the labour had contributed in the extraction of the timber and that being the position, the income derived from the sale of the timber should be treated as Revenue receipts and to be included in the annual income. As against this, it was urged by Sri P. K Kurian, the learned counsel for the II party that the shade trees in the coffee estate of the II Party are part of the capital assets and the income derived there from must be treated as capital receipts which the II Party is entitled to exclude in arriving at the gross profits; that the labour has not contributed in any way either in planting or rearing the shade trees which are of spontaneous growth; that the extraction of the timber was done through constractors who were paid the necessary expenses of extraction out of the sale proceeds of the timber and the labour employed in the estates were not engaged for the said purpose. In that view, his submission was that the II Party was within its rights to exclude the net-realisation from the sale of timber in calcuating the gross profits.

18. It is seen at page 12 in Ext. M-1 that a sum of Rs7, 22 312/- has been taken as an item of income under the head "Other Income" out of the sale of timber. The details of the proceeds from the sale of timber are furnished under Note 5 at page 17. It's seen from Note-5 that the total receipts from the sales and the stock of timber was Rs. 8,48, 154/-, out of which the extraction and selling expenses amounting to Rs. 1, 25, 842/- which includes salaries and wages of Rs. 17, 925/-has been deducted and the net receipts of Rs. 7, 22, 312/- was alone taken as the income from the timber for the year. Thus it is seen from the above that the income of Rs. 7, 22, 312/- for which deduction is claimed in Ext. M-4 was the net sale receipts taken into account after deducting the expenses incurred for the purpose of its extraction An attempt was made by the I party to show that the labour has contributed its mite in planting and rearing the shade trees as well as in the extraction of the timber during the course of the enquiry. For that purpose the I Party has recalled WW-3 and examined him in addition to the three witnesses WW-6 to WW-8 examined on its behalf after the case was remanded. The evidence of these witnesses in my opinion, does not in any way help the I Party to substantiate its contention. On the other hand, it strengthens the ease put forward by the II Pary that the shade trees were of spontaneous growth and the Labour employed by the II Party in their estates has not contributed in any way in the extraction of the timber. WW-7 has admitted in his cross examnation that the shade trees in the estates were of spontaneous

Ext. M-1 for theyear should be added to the profit for the purpose of arriving at the gross profit Sri P. K Kurian, the learned counsel f r the II Party has no objection for the inclusion of that item under the add back provision for calculating the gross profits.

15. The next dispute relates to the deduction of the various items under the head "Extraneous Income" out of the profits before determining the gross profit. Three items are included under the head extraneous income. They are: (1) Income from Investment, (2) Sale of Capital Assets other than timber and (3) Sale of Capital Assets *viz* the timber. The objection by the I Party regarding these itmes was that item Nos. 1 and 3 are not liable to be deducted whereas under item No 2 the correct amount should be Rs 1,617/-as mentioned in the computation statement filed by the I Party. During the course of the arguments Sri K. Rajagopal, the learned representative of the I Party has admitted that the correct amount under item No.2 is Rs.1,649 as shown in Ext M-4, and the said figure may be adopted for the purpose of the calculation.

16. As regards the objection for the deduction of a sum of Rs 57,963/-under item No. 1, it was argued by Sri P. K. Kurian the learned counsel for the II Party that if the sum of Rs 57, 963/ derived as income from investment is not liable to be deducted, then the gross profit figure would go up to that extent effecting a corresponding increase in the tax liability and if the I Party has no objection to revise the tax liability accordingly, he too has no objection for taking into consideration the income derived from investment for the purpose of arriving at the gross profits, for which course the I Party has no objection. In view of the stand taken by the parties, I treat this item to be included in the gross profits for the purpose of this case.

17. So far as the 3rd item is concerned, as I have already pointed out earlier, both the parties maintained their respective contentions; the I Party contending that it should be treated as Revenue receipt while the II Party maintaining that it should be treated as Capital receipt and excluded while determining the gross profits. Elaborating his contention on behalf of the I Party Sri K Rajagopal, the learned representative has argued that the timber sold was solely out of the shade trees maintained for the protection of the coffee plants in the estate; that they were planted reared and brought up by the Labour employed in the estate, that

growth and neither the field staff nor the labourers did any thing for their growth. WW-8 has admitted in his cross-examination that the shade trees were felled by the contractors engaged by the Company, and the contractors employed their own staff and labour for felling and dressing the timber. Thus it is clear from the above evidence that the shade trees standing in the estates of the II Party were of spontaneous growth and the extraction of the timber was done through contractors. It is seen from the audited balance sheet and profit and loss account Ext. M-1 that the expenses incurred for the extraction of the timber was meted out, out of the sale proceeds of the timber and not from the general fund of the II Party. Assuming that the II Party has engaed the labour employed by them in the estates for extracting the timber still, in my view it would not alter the position as the expenses incurred for the extraction including the salaries and wages paid, were deducted out of the sale proceeds of the timber and not charged to the general account of the estates.

19 The next question for consideration would be whether the receipts from the sale of the shade trees constitute capital receipts or revenue receipts. This question came up for consideration before our High Court in the Consolidated Coffee Estates (1943) Ltd., -vs- The Commissioner of Agricultural Income-tax in Mysore, Bangalore, reported in 76 Income-tax Report 29. After quoting two decisions of the Supreme Court in State of Kerala vs-Karimtharuvi Tea Estates Ltd., (60 I. T. R. 275) and Commissioner of Agricultural Income-tax-vs- Kailas Rubber and Company Ltd., 60 I. T.R. 435), Their Lordships dealing with the question whether the receipts from the sale of the shade trees constitute capital receipts or the revenue receipts were pleased to observe as follows:—

> "If the wood of the coffee bushes in the assessee's estates were sold when the coffee bushes become old and useless the receipts would constitute capital. So also the receipts from the sale of the shade trees. We asked the learned Government Pleader as to how the instant case is different from the cases decided by the Supreme Court. He submitted that the distinction is that in State of Kerala vs. Karim Tharuvi Tea Estate Ltd. the trees were cut down and sold after they had become useless by the efflux of time but in the instant case, there is no evidence that the rosewood trees had become useless by efflux of time. We do not think that the,

decision of the Supreme Court rested on the fact that the shade trees had become old and useless. The gravelia trees were not useless. The gravelia trees were old and money was realised. The business of the assessee is not to produce timber but to produce coffee and other plantation crops. It is clear that the assessee did not retain and foster the rosewood trees for the purpose of selling timber. The question whether the rosewood trees were planted by the assessee's predecessors or they were of spontaneous growth is irrelevant for the purpose of decision on the question whether the receipts are capital assets or not. In view of the common ground that the trees were maintained as shade trees for the coffee bushes, the shade trees, in our opinion, are capital assets as much as the coffee bushes and the proceeds of the sale of timber of the shade trees is a capital receipt in the hands of the assessee and not taxable as income."

The above observation of Their Lordships, in my opinion, would apply to the facts of the case in all force. It was not disputed by Sri, K. Rajagopal, the learned representative appearing for the I Party that if the proceeds of the sale of timber of the shade trees is taken as capital receipts then the II Party is entitled to claim a deduction thereof as it did in Ext. M-4. I have least hesitation to hold in this case that the proceeds of the sale of timber of the shade trees are capital receipts in view of the pronouncement of our High Court in the decision cited *supra*. In that view, I hold that the II Party was right in deducting a sum of Rs. 7, 22, 312, out of the profits before arriving at the gross profits in Ext. M-4

20. From the above discussion it follows that the two items to be added to the gross profit of Rs. 43, 49, 847 shown in Ext. M-4 are a sum of Rs 15,000 provided for doubtful debts and a sum of Rs. 57, 963 the income derived from the investment. The total gross profits thus arrived at would be Rs. 44, 22, 810.

21. Next I shall proceed to consider the various items deducted from the gross profit for arriving at the available surplus.

22. The first item of deduction from the gross profits is a sum of Rs. 4,78,892 being the depreciation amount as admissible for tax purpose. The I Party has no grievance against this deduction. The balance would be Rs. 39,43,918.

23. The next deduction is regarding the Tax Liability. A sum of Rs. 2 2,50,813. is provided for Tax Liability in the computation statement Ext. M-4. It was agreed by both the parties that the total tax liability which the II Party is entitled to deduct as a result of the addition of Rs. 15,000 the provision for doubtful debts and Rs. 57,963 the income from investment to the gross profits calculated in Ext. M-4 would be Rs. 22 93, 122 instead of Rs. 22, 50, 813 as shown in Ext. M-4. Deducting this amount the balance would be Rs. 16, 50,786.

24. The next item of deduction is the Return on paid up capital. Two items are included under this head in Ext. M-4. They are: Return on preference share capital amounting to Rs. 1, 17,000 and Return on ordinary share capital amounting to Rs. 7, 5 500. As regards the amount claimed under return on preference share capital, there was no contraversy between the parties. The dispute was regarding the return at 10% claimed on the ordinary share capital. The II Party has calculated the return on ordinary share capital at 10% whereas the I Party contended during the course of the argument that a fair return on the ordinary share capital may be fixed at 7% in the circumstances of the case. It was pointed out by Sri P. K. Kurian that allowing return on ordinary share capital either at 10% as claimed by the II Party or at 7% as conceded by the I Party does not alter the position if the plea of the I Party regarding the inclusion of the sale proceeds of the timber is not upheld. In that view, he has no objection to have a deduction at 7% on the ordinary share capital which works out at Rs. 5 00 850 instead of Rs. 7,15,500 as provided in Ext. M-4. For the purpose of this case I take the figure of Rs. 5,00 850 since my finding on the sale proceeds of the timber is in favour of the II Party. Deducting these two items, the balance would be Rs. 10,3 2,936.

25. The next item claimed by way of deduction in Ext. M-4 is a return at 5% on the reserves employed as working capital. It was agreed by the parties during the course of the argument that 5% return on a sum of Rs. 61,05 912 reserves employed as working capital. This works out at Rs. 3,05 296 instead of Rs. 4,09,918 taken in Ext. M-4. Deducting this amount the net figure arrived at would be Rs. 7,27,640.

26. The other item claimed by way of deduction in Ext. M-4 is a return at 5% on reserve sunk in fixed Assets. The I

Party has objected to this deduction. During the course of the arguments Sri P. K. Kurian as conceded that this item need not be taken as an item of deduction for calculating the available surplus. Thus it is seen from the above that the net available surplus would be Rs. 7,27,640 So we have a sum of Rs. 7,27,640 as the available surplus for the purpose of payment of bonus under the L. A. T. Formula. It was agreed by the parties during the course of the arguments that 60% of the available surplus may be taken as the reasonable share of the labour for the payment of bonus durirg the relevant year. Calculating at that rate the amount available for distribution as bonus comes to Rs. 4,36,584. The total wage bill for the relevant year agreed by the parties was Rs. 24,63,556. On the basis of this figure if the amount available for distribution as bonus is worked out, the staff is entitled to 17.6% bonus for the relevant year. Admittedly the II Party had paid to the staff 20% of their wages as bonus for the year in question. That being so, the II Party has already paid bonus more than what their staff is entitled. In that view, the demand put forward by the I Party fails and the same is liable to be rejected.

27. In the result, I Pass an award rejecting the reference.

28. In the circumstances of the case, I direct the parties to bear their own costs.

NARAYAN RAI KUDOOR,
Presiding Officer,
Industrial Tribunal,
Bangalore.

ORDER.

Bangalore, dated 19th September 1972.

S. O. 110.—WHEREAS a reference was made by State Government under Section 10(1) (d) of the Industrial Dispute Act that the Industrial Dispute between the workmen and the management of Consolidated Coffee Estate, Pollibetta Post, Coorg District was referred to the Industrial Tribunal, Bangalore, for adjudication;

AND WHEREAS the Industrial Tribunal, has submitted to the State Government its award in respect of the said Industrial Dispute.

NOW, THEREFORE, in exercise of the powers conferred by Section 17 of the Industrial Disputes Act, 1947 (Central Act XIV of 1947), the Government of Mysore are pleased to direct the publication of the said award as above, in the *Mysore Gazette*.

[No. FCL 167 LLA 72.]

By Order and in the name of the Governor of Mysore,

ANIRUDHA DESAI.

Under Secretary to Government,

892 *Food, Civil Supplies and Labour Dept.*